

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 STERLING A. SMITH  
Deputy Attorney General  
4 State Bar No. 84287  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-0378  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke  
Probation Against:

Case No. 2012-439

13 **CRYSTAL MARIE KIEHM**  
10270 East Taron Drive, #133  
14 Elk Grove, CA 95757

**PETITION TO REVOKE PROBATION**

15 **Registered Nurse License No. 707760**

16 Respondent.

17  
18 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Petition to Revoke Probation solely in her official capacity as  
21 the Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
22 Affairs.

23 2. On or about July 17, 2007, the Board of Registered Nursing issued Registered Nurse  
24 License Number 707760 to Crystal Marie Kiehm ("Respondent"). The license was in effect at all  
25 times relevant to the charges brought herein and will expire on May 31, 2015, unless renewed.

26 **PRIOR DISCIPLINE**

27 3. In a disciplinary action entitled, "*In the Matter of the Accusation Against Crystal*  
28 *Marie Kiehm*," Case No. 2012-439, the Board issued a Decision and Order, effective

1 September 28, 2012, in which Respondent's Registered Nurse License Number 707760 was  
2 revoked. However, the revocation was stayed and Respondent was placed on probation for a  
3 period of three (3) years with certain terms and conditions. A copy of the Decision and Order is  
4 attached hereto as **Exhibit A**, and is incorporated herein by reference.

5 4. At all times after the effective date of Respondent's probation, Condition 12 stated:

6 If Respondent violates the conditions of her probation, the Board after  
7 giving Respondent notice and an opportunity to be heard, may set aside the stay order  
and impose the stayed discipline (revocation/suspension) of Respondent's license.

8 If during the period of probation, an accusation or petition to revoke  
9 probation has been filed against Respondent's license or the Attorney General's  
Office has been requested to prepare an accusation or petition to revoke probation  
10 against Respondent's license, the probationary period shall automatically be extended  
and shall not expire until the accusation or petition has been acted upon by the Board.

11 5. Respondent's probation is subject to revocation, in that she violated probation as set  
12 forth below:

13 **FIRST CAUSE TO REVOKE PROBATION**

14 **(Mental Health Examination)**

15 6. At all times after the effective date of Respondent's probation, Condition 14 stated:

16 Respondent shall, within 45 days of the effective date of this Decision,  
17 have a mental health examination including psychological testing as appropriate to  
determine her capability to perform the duties of a registered nurse. The examination  
18 will be performed by a psychiatrist, psychologist or other licensed mental health  
practitioner approved by the Board. The examining mental health practitioner will  
19 submit a written report of that assessment and recommendations to the Board. All  
costs are the responsibility of Respondent. Recommendations for treatment, therapy  
20 or counseling made as a result of the mental health examination will be instituted and  
followed by Respondent.

21 If Respondent is determined to be unable to practice safely as a registered  
nurse, the licensed mental health care practitioner making this determination shall  
22 immediately notify the Board and Respondent by telephone, and the Board shall  
request that the Attorney General's office prepare an accusation or petition to revoke  
23 probation. Respondent shall immediately cease practice and may not resume practice  
until notified by the Board. During this period of suspension, Respondent shall not  
24 engage in any practice for which a license issued by the Board is required, until the  
Board has notified Respondent that a mental health determination permits Respondent  
25 to resume practice. This period of suspension will not apply to the reduction of this  
probationary time period.

26 If Respondent fails to have the above assessment submitted to the Board  
27 within the 45-day requirement, Respondent shall immediately cease practice and shall  
not resume practice until notified by the Board. This period of suspension will not  
28 apply to the reduction of this probationary time period. The Board may waive or

postpone this suspension only if significant documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

7. Respondent's probation is subject to revocation, in that Respondent has failed to comply with the recommendations for treatment, including medication and therapy, that were made by the examining mental health practitioner as a result of the mental health examination. Respondent's failure to comply with the treatment recommendations has impaired Respondent's ability to safely perform the functions of a registered nurse.

**PRAYER**

**WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking the probation that was granted by the Board of Registered Nursing in Case No. 2012-439, and imposing the disciplinary order that was stayed thereby revoking Registered Nurse License No. 707760, issued to Crystal Marie Kiehm;

2. Revoking or suspending Registered Nurse License No. 707760, issued to Crystal Marie Kiehm; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: May 16, 2013

*for* *Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

SA2012109105  
11090645.doc

## **Exhibit A**

**Decision and Order**

**Board of Registered Nursing Case No. 2012-439**

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**CRYSTAL MARIE KIEHM**  
10270 East Taron Drive, Apt #133  
Elk Grove, CA 95757

**Registered Nurse License No. 707760**

Respondent

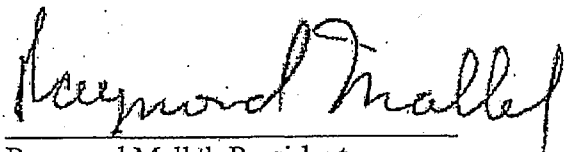
Case No. 2012- 439

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 28, 2012.

IT IS SO ORDERED August 29, 2012.



Raymond Mallé, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 STERLING A. SMITH  
Deputy Attorney General  
4 State Bar No. 84287  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-0378  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-439

13 **CRYSTAL MARIE KIEHM**  
10270 East Taron Drive, Apt #133  
14 Elk Grove, California 95757  
Registered Nurse License No. 707760

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 Respondent.

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the  
21 Board of Registered Nursing. She brought this action solely in her official capacity and is  
22 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
23 Sterling A. Smith, Deputy Attorney General.

24 2. Respondent Crystal Marie Kiehm (Respondent) is represented in this proceeding by  
25 attorney Ralph C. Lee, whose address is: Ralph C. Lee, Beyer, Pongratz & Rosen, 3230 Ramos  
26 Circle, Sacramento, California 95827.

27 3. On or about July 17, 2007, the Board of Registered Nursing issued Registered Nurse  
28 License No. 707760 to Crystal Marie Kiehm (Respondent). The Registered Nurse License was in

1 full force and effect at all times relevant to the charges brought in Accusation No. 2012-439 and  
2 will expire on May 31, 2013, unless renewed.

### 3 JURISDICTION

4 4. Accusation No. 2012-439 was filed before the Board of Registered Nursing (Board),  
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
6 and all other statutorily required documents were properly served on Respondent on February 15,  
7 2012. Respondent timely filed her Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 2012-439 is attached as exhibit A and incorporated herein  
9 by reference.

### 10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in Accusation No. 2012-439. Respondent has also carefully read, fully  
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
14 Order.

15 7. Respondent is fully aware of her legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
17 her own expense; the right to confront and cross-examine the witnesses against her; the right to  
18 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to  
19 compel the attendance of witnesses and the production of documents; the right to reconsideration  
20 and court review of an adverse decision; and all other rights accorded by the California  
21 Administrative Procedure Act and other applicable laws.

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

24 ///

25 ///

26 ///

27 ///

28 ///

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation

No. 2012-439, if proven at a hearing, constitute cause for imposing discipline upon her Registered Nurse License.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest those charges.

11. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

13. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

///

///



1 14. The parties understand and agree that facsimile copies of this Stipulated Settlement  
2 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
3 effect as the originals.

4 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
5 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
6 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
7 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
8 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
9 writing executed by an authorized representative of each of the parties.

10 16. In consideration of the foregoing admissions and stipulations, the parties agree that  
11 the Board may, without further notice or formal proceeding, issue and enter the following  
12 Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Registered Nurse License No. 707760 issued to  
15 Respondent Crystal Marie Kiehm (Respondent) is revoked. However, the revocation is stayed  
16 and Respondent is placed on probation for three (3) years on the following terms and conditions.

17 **Severability Clause.** Each condition of probation contained herein is a separate and  
18 distinct condition. If any condition of this Order, or any application thereof, is declared  
19 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
20 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
21 and enforceable to the fullest extent permitted by law.

22 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and  
23 detailed account of any and all violations of law shall be reported by Respondent to the Board in  
24 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with  
25 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within  
26 45 days of the effective date of the decision, unless previously submitted as part of the licensure  
27 application process.

28 ///

1       **Criminal Court Orders:** If Respondent is under criminal court orders, including  
2 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
3 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

4       2.   **Comply with the Board's Probation Program.** Respondent shall fully comply with  
5 the conditions of the Probation Program established by the Board and cooperate with  
6 representatives of the Board in its monitoring and investigation of the Respondent's compliance  
7 with the Board's Probation Program. Respondent shall inform the Board in writing within no  
8 more than 15 days of any address change and shall at all times maintain an active, current license  
9 status with the Board, including during any period of suspension.

10       Upon successful completion of probation, Respondent's license shall be fully restored.

11       3.   **Report in Person.** Respondent, during the period of probation, shall appear in  
12 person at interviews/meetings as directed by the Board or its designated representatives.

13       4.   **Residency, Practice, or Licensure Outside of State.** Periods of residency or  
14 practice as a registered nurse outside of California shall not apply toward a reduction of this  
15 probation time period. Respondent's probation is tolled, if and when she resides outside of  
16 California. Respondent must provide written notice to the Board within 15 days of any change of  
17 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
18 returning to practice in this state.

19       Respondent shall provide a list of all states and territories where she has ever been licensed  
20 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
21 information regarding the status of each license and any changes in such license status during the  
22 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing  
23 license during the term of probation.

24       5.   **Submit Written Reports.** Respondent, during the period of probation, shall submit  
25 or cause to be submitted such written reports/declarations and verification of actions under  
26 penalty of perjury, as required by the Board. These reports/declarations shall contain statements  
27 relative to Respondent's compliance with all the conditions of the Board's Probation Program.  
28

1 Respondent shall immediately execute all release of information forms as may be required by the  
2 Board or its representatives.

3 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
4 state and territory in which she has a registered nurse license.

5 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall  
6 engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
7 6 consecutive months or as determined by the Board.

8 For purposes of compliance with the section, "engage in the practice of registered nursing"  
9 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
10 non-direct patient care position that requires licensure as a registered nurse.

11 The Board may require that advanced practice nurses engage in advanced practice nursing  
12 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

13 If Respondent has not complied with this condition during the probationary term, and  
14 Respondent has presented sufficient documentation of her good faith efforts to comply with this  
15 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
16 extension of Respondent's probation period up to one year without further hearing in order to  
17 comply with this condition. During the one year extension, all original conditions of probation  
18 shall apply.

19 7. **Employment Approval and Reporting Requirements.** Respondent shall obtain  
20 prior approval from the Board before commencing or continuing any employment, paid or  
21 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
22 performance evaluations and other employment related reports as a registered nurse upon request  
23 of the Board.

24 Respondent shall provide a copy of this Decision to her employer and immediate  
25 supervisors prior to commencement of any nursing or other health care related employment.

26 In addition to the above, Respondent shall notify the Board in writing within seventy-two  
27 (72) hours after she obtains any nursing or other health care related employment. Respondent  
28 shall notify the Board in writing within seventy-two (72) hours after she is terminated or

1 separated, regardless of cause, from any nursing, or other health care related employment with a  
2 full explanation of the circumstances surrounding the termination or separation.

3 8. **Supervision.** Respondent shall obtain prior approval from the Board regarding  
4 Respondent's level of supervision and/or collaboration before commencing or continuing any  
5 employment as a registered nurse, or education and training that includes patient care.

6 Respondent shall practice only under the direct supervision of a registered nurse in good  
7 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
8 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
9 approved.

10 Respondent's level of supervision and/or collaboration may include, but is not limited to the  
11 following:

12 (a) **Maximum** - The individual providing supervision and/or collaboration is present in  
13 the patient care area or in any other work setting at all times.

14 (b) **Moderate** - The individual providing supervision and/or collaboration is in the patient  
15 care unit or in any other work setting at least half the hours Respondent works.

16 (c) **Minimum** - The individual providing supervision and/or collaboration has person-to-  
17 person communication with Respondent at least twice during each shift worked.

18 (d) **Home Health Care** - If Respondent is approved to work in the home health care  
19 setting, the individual providing supervision and/or collaboration shall have person-to-person  
20 communication with Respondent as required by the Board each work day. Respondent shall  
21 maintain telephone or other telecommunication contact with the individual providing supervision  
22 and/or collaboration as required by the Board during each work day. The individual providing  
23 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
24 patients' homes visited by Respondent with or without Respondent present.

25 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any  
26 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,  
27 or for an in-house nursing pool.

28 ///

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

**10. Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

**11. Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$4,732.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an

1 extension of Respondent's probation period up to one year without further hearing in order to  
2 comply with this condition. During the one year extension, all original conditions of probation  
3 will apply.

4 **12. Violation of Probation.** If Respondent violates the conditions of her probation, the  
5 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order  
6 and impose the stayed discipline (revocation/suspension) of Respondent's license.

7 If during the period of probation, an accusation or petition to revoke probation has been  
8 filed against Respondent's license or the Attorney General's Office has been requested to prepare  
9 an accusation or petition to revoke probation against Respondent's license, the probationary  
10 period shall automatically be extended and shall not expire until the accusation or petition has  
11 been acted upon by the Board.

12 **13. License Surrender.** During Respondent's term of probation, if she ceases practicing  
13 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,  
14 Respondent may surrender her license to the Board. The Board reserves the right to evaluate  
15 Respondent's request and to exercise its discretion whether to grant the request, or to take any  
16 other action deemed appropriate and reasonable under the circumstances, without further hearing.  
17 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be  
18 subject to the conditions of probation.

19 Surrender of Respondent's license shall be considered a disciplinary action and shall  
20 become a part of Respondent's license history with the Board. A registered nurse whose license  
21 has been surrendered may petition the Board for reinstatement no sooner than the following  
22 minimum periods from the effective date of the disciplinary decision:

23 (1) Two years for reinstatement of a license that was surrendered for any reason other  
24 than a mental or physical illness; or

25 (2) One year for a license surrendered for a mental or physical illness.

26 **14. Mental Health Examination.** Respondent shall, within 45 days of the effective date  
27 of this Decision, have a mental health examination including psychological testing as appropriate  
28 to determine her capability to perform the duties of a registered nurse. The examination will be

1 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by  
2 the Board. The examining mental health practitioner will submit a written report of that

3 assessment and recommendations to the Board. All costs are the responsibility of Respondent.  
4 Recommendations for treatment, therapy or counseling made as a result of the mental health  
5 examination will be instituted and followed by Respondent.

6 If Respondent is determined to be unable to practice safely as a registered nurse, the  
7 licensed mental health care practitioner making this determination shall immediately notify the  
8 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
9 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
10 practice and may not resume practice until notified by the Board. During this period of  
11 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
12 is required, until the Board has notified Respondent that a mental health determination permits  
13 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
14 probationary time period.

15 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
16 requirement, Respondent shall immediately cease practice and shall not resume practice until  
17 notified by the Board. This period of suspension will not apply to the reduction of this  
18 probationary time period. The Board may waive or postpone this suspension only if significant,  
19 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
20 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
21 Only one such waiver or extension may be permitted.

22 ///

23 ///

24 ///

25 ///

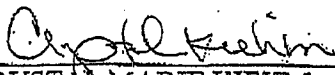
26 ///

27 ///

28 ///


ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ralph C. Lee. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 6/21/12  
CRYSTAL MARIE KIEHM  
Respondent

I have read and fully discussed with Respondent Crystal Marie Kiehm the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

Beyer, Pongratz &amp; Rosen

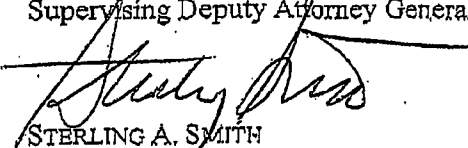
DATED: 6/29/12  
Ralph C. Lee  
Attorney for RespondentENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer

Affairs.

Dated: 6/29/2012

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
STERLING A. SMITH  
Deputy Attorney General  
Attorneys for Complainant

SA2010103173/10912518.docx



**Exhibit A**

**Accusation No. 2012-439**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General

3 STERLING A. SMITH  
Deputy Attorney General  
4 State Bar No. 84287  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-0378  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-439**

12 **CRYSTAL MARIE KIEHM**  
13 10270 East Tarron Drive, Apt #133  
Elk Grove, California 95757

**A C C U S A T I O N**

14 **Registered Nurse License No. 707760**

15 Respondent.

16  
17 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Interim  
20 Executive Officer of the Board of Registered Nursing ("Board").

21 2. On or about July 17, 2007, the Board issued Registered Nurse License Number  
22 707760 to Crystal Marie Kiehm ("Respondent"). The registered nurse license was in full force  
23 and effect at all times relevant to the charges brought herein and will expire on May 31, 2013,  
24 unless renewed.

25 **STATUTORY AND REGULATORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive  
28

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing  
2 Practice Act.

3 4. Code section 2761 states:

4 "The board may take disciplinary action against a certified or licensed nurse or deny an  
5 application for a certificate or license for any of the following:

6 (a) Unprofessional conduct, which includes, but is not limited to, the following:

7 (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
8 functions."

9 5. California Code of Regulations, title 16, section 1442, states:

10 As used in Section 2761 of the code, 'gross negligence' includes an extreme  
11 departure from the standard of care which, under similar circumstances, would have  
12 ordinarily been exercised by a competent registered nurse. Such an extreme departure  
13 means the repeated failure to provide nursing care as required or failure to provide  
14 care or to exercise ordinary precaution in a single situation which the nurse knew, or  
15 should have known, could have jeopardized the client's health or life.

16 6. California Code of Regulations, title 16, section 1443, states:

17 As used in Section 2761 of the code, "incompetence" means the lack of  
18 possession of or the failure to exercise that degree of learning, skill, care and  
19 experience ordinarily possessed and exercised by a competent registered nurse as  
20 described in Section 1443.5.

#### 21 COST RECOVERY

22 7. Code section 125.3 provides, in pertinent part, that the Board may request the  
23 administrative law judge to direct a licentiate found to have committed a violation or violations of  
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
25 enforcement of the case.

#### 26 BACKGROUND INFORMATION

27 8. On or about December 28, 2009, while on duty as a staff nurse in the neurology unit  
28 at Mercy General Hospital, located in Sacramento, California, Respondent was caring for a 65  
year-old patient ("patient W"), who was recovering from femoral bypass graft surgery (surgery  
start time was 0924 hours and end time was 1354 hours). Respondent administered the first dose  
of Morphine (2 mg.) to patient W at 1935 hours. The physician's order called for 0.5mg. – 2mg.  
of Morphine. Respondent failed to take patient W's vital signs prior to administering the

1 Morphine, and failed to reassess/re-evaluate patient W 15 minutes following the administration of  
2 the Morphine for any reaction. Between about 2100 and 2020 hours, a nurse manager walked  
3 past patient W's room and saw him slumped over and unconscious. A code blue was called,  
4 resuscitation efforts failed, and the patient expired at 2105 hours.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Gross Negligence)**

7 9. Respondent is subject to discipline under Code section 2761(a)(1), on the grounds of  
8 unprofessional conduct, in that on or about December 28, 2009, while employed as a staff nurse  
9 in the neurology unit at Mercy General Hospital, located in Sacramento, California, she was  
10 grossly negligent in the following respects:

11 a. Respondent failed to complete and document a baseline assessment prior to  
12 administering Morphine to patient W, who was a high-risk post operative patient.

13 b. Respondent failed to start the administration of Morphine at the lowest ordered dose  
14 (0.5mg.), pursuant to the hospital's medication policy.

15 c. Respondent failed to reassess, re-evaluate, and document patient W 15 minutes  
16 following administration of the initial dose of Morphine.

17 d. Respondent failed to document patient W's reaction to the Morphine.

18 e. Respondent left the nursing unit without completing initial assessments on patients  
19 assigned to her, notifying the charge nurse, and ensuring coverage for her patients.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Incompetence)**

22 10. Respondent is subject to discipline under Code section 2761(a)(1), on the grounds of  
23 unprofessional conduct, in that on or about December 28, 2009, while on duty as a staff nurse in  
24 the neurology unit at Mercy General Hospital, located in Sacramento, California, Respondent was  
25 incompetent, as set forth above in paragraph 9.

26 ///

27 ///

28 ///

1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 11. Respondent is subject to discipline under Code section 2761(a), on the grounds of  
4 unprofessional conduct, in that on or about December 28, 2009, while on duty as a staff nurse in  
5 the neurology unit at Mercy General Hospital, located in Sacramento, California, Respondent  
6 demonstrated unprofessional conduct, as more particularly set forth above in paragraph 9.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and that following the hearing, the Board of Registered Nursing issue a decision:

- 10 1. Revoking or suspending Registered Nurse License Number 707760, issued to Crystal  
11 Marie Kiehm;  
12 2. Ordering Crystal Marie Kiehm to pay the Board of Registered Nursing the reasonable  
13 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
14 Code section 125.3; and,  
15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: February 15, 2012

Louise R. Bailey  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
State of California  
Complainant

17  
18  
19  
20 SA2010103173  
21 10822894.doc  
22  
23  
24  
25  
26  
27  
28